

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Dec 14, 2020**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

EMMANUEL ROY,

Plaintiff,

v.

PIONEER HUMAN RESOURCES,  
INC; SPOKANE RESIDENTIAL  
REENTRY CENTER; DAN  
SIEGLER; CARLOS SOLOZAR;  
and SUSAN JOHNSON-CONNERS,

Defendants.

NO: 2:20-CV-235-RMP

ORDER GRANTING PLAINTIFF'S  
MOTION FOR FINAL JUDGMENT

On November 2, 2020, this Court denied a Motion to Remand by Plaintiff Emmanuel Roy. ECF Nos. 16 and 17. In the same Order and Judgment, the Court granted in part Defendants Pioneer Human Resources, Inc., et al.'s Motion to Dismiss with respect to dismissal with prejudice of Plaintiff's false imprisonment, breach of statutory duties, and fraud claims, and denied in part Defendants' Motion to Dismiss with respect to dismissal without prejudice of Plaintiff's malicious abuse

ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL JUDGMENT ~ 1

1 of process, false arrest, tortious interference with employment,  
2 retaliation/negligence, and failure to train or supervise claims. Id.

3 Now before the Court is Plaintiff's November 4, 2020 Motion for Final  
4 Judgment, ECF No. 18. Plaintiff communicates that he "declines the opportunity  
5 extended by the Court to amend his complaint and instead asks the Court to issue a  
6 final judgment" to appeal the Court's denial of this Motion to Remand. ECF No. 18  
7 at 2.

8 Defendants responded: "As Plaintiff has now confirmed he will not amend his  
9 complaint to state legally sufficient claims, the final judgment of dismissal must be  
10 with prejudice as to all claims." ECF No. 19 at 2. Plaintiff did not file a reply.

11 Plaintiff's Motion for Entry of Final Judgment is governed by Federal Rule of  
12 Civil Procedure 54(b), which provides as follows:

13 Judgment on Multiple Claims or Involving Multiple Parties. When an  
14 action presents more than one claim for relief--whether as a claim,  
15 counterclaim, crossclaim, or third-party claim--or when multiple  
16 parties are involved, the court may direct entry of a final judgment as  
17 to one or more, but fewer than all, claims or parties only if the court  
18 expressly determines that there is no just reason for delay. Otherwise,  
any order or other decision, however designated, that adjudicates  
fewer than all the claims or the rights and liabilities of fewer than all  
the parties does not end the action as to any of the claims or parties  
and may be revised at any time before the entry of a judgment  
adjudicating all the claims and all the parties' rights and liabilities.

19 Fed. R. Civ. P. 54(b).

20 The U.S. Supreme Court has interpreted Rule 54(b) to require a district court  
21 facing a Rule 54(b) motion, first, to determine whether the motion concerns a "final

1 judgment.” *Curtiss-Wright Corp. v. General Elec. Co.*, 446 U.S. 1, 7–8 (1980). “It  
2 must be a ‘judgment’ in the sense that it is a decision upon a cognizable claim for  
3 relief, and it must be ‘final’ in the sense that it is ‘an ultimate disposition of an  
4 individual claim entered in the course of a multiple claims action.’” *Id.* at 7 (*quoting*  
5 *Sears, Roebuck & Co. v. Mackey*, 351 U.S. 427 (1956)). Put another way, a  
6 judgment is final for the purposes of Rule 54(b) when it “terminates the litigation  
7 between the parties . . . and leaves nothing to be done but to enforce by execution  
8 what has been determined.” *Parr v. United States*, 351 U.S. 513, 518 (1956).

9 Plaintiff informs the Court that he will not amend his complaint to address the  
10 identified deficiencies in the claims that the Court dismissed without prejudice. *See*  
11 ECF No. 18 at 2. Given Plaintiff’s waiver of his opportunity to amend his complaint  
12 to state claims upon which relief can be granted, the claims previously dismissed  
13 without prejudice may now be dismissed with prejudice. *Weilburg v. Shapiro*, 488  
14 F.3d 1202, 1205 (9th Cir. 2007) (dismissal with prejudice of a pro se complaint is  
15 proper when it is clear that deficiencies of a complaint will not be cured by  
16 amendment).

17 Furthermore, the Court interprets Plaintiff’s lack of reply to Defendants’  
18 request for dismissal with prejudice as consent to entry of final judgment in that  
19 form. *See* LCivR 7(e) (failure to comply with the requirements applicable to  
20 motions and responses “may be deemed consent to the entry of an order adverse to  
21 the party who violates these rules”).

1 Accordingly, **IT IS HEREBY ORDERED** that:

2 1. Plaintiff's Motion for Final Judgment, **ECF No. 18**, is **GRANTED**.

3 2. Final judgment shall be **ENTERED with prejudice** in favor of  
4 Defendants with respect to all claims in Plaintiff's Complaint.

5 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this  
6 Order, enter judgment as directed, provide copies to Plaintiff and to counsel, and  
7 **close the file** in this case.

8 **DATED** December 14, 2020.

9  
10 *s/ Rosanna Malouf Peterson*  
ROSANNA MALOUF PETERSON  
11 United States District Judge  
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